

LEGISLATURE OF THE STATE OF IDAHO
Sixty-third Legislature Second Regular Session - 2016

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 525, As Amended

BY AGRICULTURAL AFFAIRS COMMITTEE

AN ACT

RELATING TO DOGS; AMENDING SECTION 25-2805, IDAHO CODE, TO REMOVE A PROVISION REGARDING VICIOUS DOGS; AMENDING SECTION 25-2808, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING CHAPTER 28, TITLE 25, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 25-2809, IDAHO CODE, TO PROVIDE A SHORT TITLE; AMENDING CHAPTER 28, TITLE 25, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 25-2810, IDAHO CODE, TO DEFINE TERMS, TO PROVIDE THAT CERTAIN PEOPLE MAY PETITION TO HAVE A DOG DECLARED DANGEROUS OR AT RISK, TO PROVIDE INSTANCES OF JUSTIFIED PROVOCATION, TO AUTHORIZE A COURT TO IMPOSE CERTAIN ORDERS AND REQUIREMENTS FOR DANGEROUS AND AT-RISK DOGS, TO PROVIDE CONDITIONS FOR THE TRANSFER OF A DANGEROUS OR AT-RISK DOG, TO PROVIDE FOR WAIVER OF AN AT-RISK DESIGNATION, TO PROVIDE FOR PENALTIES, TO AUTHORIZE CERTAIN OFFICERS TO MAKE ARRANGEMENTS FOR A DOG AND TO PROVIDE THAT CERTAIN PERSONS SHALL BE SUBJECT TO CIVIL LIABILITY; AMENDING CHAPTER 28, TITLE 25, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 25-2811, IDAHO CODE, TO PROVIDE PENALTIES FOR A VIOLATION; AMENDING CHAPTER 28, TITLE 25, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 25-2812, IDAHO CODE, TO AUTHORIZE LOCAL GOVERNMENTS TO ADOPT MORE RESTRICTIVE REQUIREMENTS UNDER CERTAIN CONDITIONS; PROVIDING SEVERABILITY; AND DECLARING AN EMERGENCY.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 25-2805, Idaho Code, be, and the same is hereby amended to read as follows:

25-2805. DOGS RUNNING AT LARGE -- ~~VICIOUS DOGS~~ -- PENALTY. (1) Any person, who, after complaint has been made by any person to the sheriff, who shall serve a copy of said notice upon such person complained of, willfully or negligently permits any dog owned or possessed or harbored by him to be, or run, at large without a competent and responsible attendant or master, within the limits of any city, town, or village or in the vicinity of any farm, pasture, ranch, dwelling house, or cultivated lands of another, or who willfully or negligently fails, neglects or refuses to keep any such dog securely confined within the limits of his own premises when not under the immediate care and control of a competent and responsible attendant or master, shall be guilty of an infraction punishable as provided in section 18-113A, Idaho Code.

~~(2) Any dog which, when not physically provoked, physically attacks, wounds, bites or otherwise injures any person who is not trespassing, is vicious. It shall be unlawful for the owner or for the owner of premises on which a vicious dog is present to harbor a vicious dog outside a secure enclosure. A secure enclosure is one from which the animal cannot escape and for which exit and entry is controlled by the owner of the premises or owner of the animal. Any vicious dog removed from the secure enclosure must be re-~~

~~strained by a chain sufficient to control the vicious dog. Persons guilty of a violation of this subsection, and in addition to any liability as provided in section 25-2806, Idaho Code, shall be guilty of a misdemeanor. For a second or subsequent violation of this subsection, the court may, in the interest of public safety, order the owner to have the vicious dog destroyed or may direct the appropriate authorities to destroy the dog.~~

SECTION 2. That Section 25-2808, Idaho Code, be, and the same is hereby amended to read as follows:

25-2808. DOGS USED IN LAW ENFORCEMENT. Neither the state of Idaho, nor any city or county, nor any peace officer employed by any of them, shall be criminally liable under the provisions of section 25-2805~~10~~, Idaho Code, or civilly liable in damages for injury committed by a dog when: (1) the dog has been trained to assist in law enforcement; and (2) the injury occurs while the dog is reasonably and carefully being used in the apprehension, arrest or location of a suspected offender or in maintaining or controlling the public order.

SECTION 3. That Chapter 28, Title 25, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 25-2809, Idaho Code, and to read as follows:

25-2809. SHORT TITLE. Sections 25-2809 through 25-2812, Idaho Code, shall be known and may be cited as the "Idaho Dangerous and At-Risk Dogs Act."

SECTION 4. That Chapter 28, Title 25, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 25-2810, Idaho Code, and to read as follows:

25-2810. DANGEROUS AND AT-RISK DOGS. (1) For purposes of this act:

- (a) "At-risk dog" means any dog that without justified provocation bites a person without causing a serious injury as defined in this section.
- (b) "Dangerous dog" means any dog that:
 - (i) Without justified provocation has inflicted serious injury on a person; or
 - (ii) Has been previously found to be at risk and thereafter bites or physically attacks a person without justified provocation.
- (c) "Justified provocation" means to perform any act or omission that a reasonable person with common knowledge of dog behavior would conclude is likely to precipitate a bite or attack by an ordinary dog.
- (d) "Physically attack" means an aggressive action upon a person by a dog which there is physical contact between the dog and the person.
- (e) "Serious injury" means an injury to a person characterized by piercing of the hypodermis or tearing of the muscles, veins or arteries, or disfiguring lacerations that would cause a reasonably prudent person to seek treatment from a medical professional without regard to whether the person actually sought medical treatment.

(2) A petition for a court to declare a dog dangerous or at-risk may be brought by:

- 1 (a) Any person who has been bitten or physically attacked by the dog;
- 2 (b) A parent or guardian of any minor who has been bitten or physically
- 3 attacked by the dog; or
- 4 (c) A county or city prosecuting attorney.

5 In such proceedings, it is not necessary for the petitioner to show that the
6 owner, possessor or harbinger of such dog had knowledge of the fact that the
7 dog would behave in a manner consistent with the definition of a dangerous or
8 at-risk dog.

9 (3) No dog may be declared to be a dangerous or at-risk dog when at the
10 time an injury or damage was sustained, the precipitating cause constituted
11 justified provocation. Justified provocation includes, but is not limited
12 to, the following:

- 13 (a) The dog was protecting or defending a person within the immediate
- 14 vicinity of the dog from an attack or assault;
- 15 (b) The person was committing a crime or offense upon the property of
- 16 the owner or custodian of the dog;
- 17 (c) The person was at the time, or had in the past, willfully tormented,
- 18 abused or assaulted the dog;
- 19 (d) The dog was responding to pain or injury or protecting its off-
- 20 spring;
- 21 (e) The dog was working as a hunting dog, herding dog or predator
- 22 control dog on the property of, or under the control of, its owner or
- 23 keeper, and the damage or injury sustained was to a person who was in-
- 24 terfering with the dog while the dog was working in a place where it was
- 25 lawfully engaged in such activity, including public lands;
- 26 (f) The dog was a service animal individually trained to do work or per-
- 27 form tasks for a person with a disability; or
- 28 (g) The person was intervening between two (2) or more animals engaged
- 29 in aggressive behavior or fighting.

30 (4) If a court finds that a dog is dangerous pursuant to the provisions
31 of this act, in addition to any other penalty or liability provided in this
32 act, the court may order the dog to be humanely put to death.

33 (5) If a court finds that a dog belonging to an owner is dangerous or at
34 risk pursuant to the provisions of this act, the court in its discretion may
35 order the owner to comply with one (1) or more of the following restrictions
36 and requirements:

- 37 (a) When outdoors, the dog shall be confined to a secure, locked enclo-
- 38 sure from which it cannot escape and that unauthorized persons are pre-
- 39 vented from accidental entry, and for which entrance and exit are con-
- 40 trolled by the owner of the premises or owner of the dog;
- 41 (b) When off the property of the owner and not confined in a secure
- 42 enclosure the dog shall be kept on a secure leash by a competent adult
- 43 physically capable of controlling the dog. The court shall have the
- 44 discretion to order that the dog wear a muzzle capable of preventing the
- 45 dog from biting if the dog is in any public area in which contact between
- 46 the dog and the public is likely to occur;
- 47 (c) The dog shall be permanently identified by means of a color photo-
- 48 graph in a file maintained by the court and by a microchip used for the
- 49 identification of companion animals at the expense of the owner. Mi-
- 50 crochip registration shall be reported in a timely manner by the owner

1 of the dog to the local agency responsible for the control of such dogs.
2 Upon demand, the owner shall provide access to the dog to any such agency
3 or local law enforcement entity for the purposes of verifying microchip
4 implantation; and

5 (d) The premises on which the dog is kept shall be posted with clearly
6 visible signs stating "Beware of Dog" and may also require posting of
7 signs with a warning symbol that informs children of the presence of a
8 dog that may be dangerous. Signs shall be visible from the closest road-
9 way.

10 (6) Any owner of a dog designated as a dangerous or at-risk dog shall
11 notify any local agency responsible for the control of such dogs upon the
12 transfer of a dangerous or at-risk dog to another person within thirty (30)
13 days of such transfer. In order to transfer ownership of a dog designated as
14 a dangerous or at-risk dog, the current owner shall notify the new owner of
15 any order issued by a court pursuant to the provisions of this act and provide
16 a copy of such order prior to such transfer. All sanctions and restrictions
17 placed upon the keeping of the dog by the court shall transfer to any person
18 taking custody of such dog and such person shall comply with all such sanc-
19 tions and restrictions and be duly registered as the owner of a dangerous or
20 at-risk dog by the local agency. Any owner relocating a dangerous or at-risk
21 dog to another jurisdiction served by a different agency responsible for the
22 control of such dogs, shall notify both the previous agency and the responsi-
23 ble agency in the new location within thirty (30) days of such relocation.

24 (7) In the event a dog designated by a court as at risk does not sub-
25 sequently act in a manner consistent with the definitions of a dangerous or
26 at-risk dog, and providing that the owner and keeper of the dog has complied
27 with all the provisions of this act, for a period of three (3) years, the re-
28 strictions and requirements imposed by the court shall be waived and the dog
29 shall no longer be classified as at risk.

30 (8) Any person who fails to comply with sanctions, restrictions or re-
31 quirements imposed by the court pursuant to the provisions of this section
32 shall be subject to the provisions of section 25-2811, Idaho Code.

33 (9) During the pendency of a petition to have a dog declared dangerous
34 or at risk, a law enforcement officer or officer of a local agency responsi-
35 ble for the control of such dogs shall be authorized to take the dog into cus-
36 tody and place the dog in a suitable place at a customary and reasonable ex-
37 pense to the owner pending final disposition of the charge against the owner.
38 In lieu of keeping the dog at such facility, officers shall have the discre-
39 tion to impose reasonable temporary restrictions upon the keeping of the dog
40 at the property of the owner such that the dog is controlled and prevented
41 from contact with others pending the final disposition of the petition. Upon
42 notification that an action pursuant to this subsection has been initiated
43 by an officer authorized to enforce such action against a dog, the relocation
44 or transfer of such dog to another shall be prohibited and constitute a vio-
45 lation of this act.

46 (10) Any dog that physically attacks, wounds, bites or otherwise in-
47 jures any person who is not trespassing, when such dog is not physically
48 provoked or otherwise justified pursuant to subsection (3) of this section
49 or as set forth in section 25-2808, Idaho Code, subjects either its owner
50 or any person who has accepted responsibility as the possessor, harbinger or

1 custodian of the dog, or both, to civil liability for the injuries caused by
 2 the dog. A prior determination that a dog is dangerous or at-risk, or subject
 3 to any court order imposing restrictions or requirements pursuant to the
 4 provisions of this section, shall not be a prerequisite to civil liability
 5 for injuries caused by the dog.

6 SECTION 5. That Chapter 28, Title 25, Idaho Code, be, and the same is
 7 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
 8 ignated as Section 25-2811, Idaho Code, and to read as follows:

9 25-2811. PENALTIES. For persons with knowledge of an order by a court
 10 issued pursuant to the provisions of this act:

11 (1) A person guilty of a first violation of section 25-2810(8), Idaho
 12 Code, shall be guilty of a misdemeanor punishable by a fine of not less than
 13 two hundred dollars (\$200) and not more than five thousand dollars (\$5,000).

14 (2) A person guilty of a second violation of section 25-2810(8), Idaho
 15 Code, within five (5) years of the first conviction shall be guilty of a mis-
 16 demeanor punishable by a jail sentence of not more than six (6) months or by
 17 a fine of not less than five hundred dollars (\$500) and not more than seven
 18 thousand dollars (\$7,000), or by both such fine and imprisonment.

19 (3) A person guilty of a third or subsequent violation of section
 20 25-2810(8), Idaho Code, within fifteen (15) years of the first conviction
 21 shall be guilty of a misdemeanor punishable by a jail sentence of not more
 22 than twelve (12) months or by a fine of not less than five hundred dollars
 23 (\$500) and not more than nine thousand dollars (\$9,000), or by both such fine
 24 and imprisonment.

25 SECTION 6. That Chapter 28, Title 25, Idaho Code, be, and the same is
 26 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
 27 ignated as Section 25-2812, Idaho Code, and to read as follows:

28 25-2812. LOCAL REGULATION. The provisions of this act shall establish
 29 as state law minimum standards and requirements for the control of dogs that
 30 may threaten the public with injury and to provide for certain state crimes
 31 for violations of such minimum standards and requirements. Provided how-
 32 ever, this act shall not supersede or invalidate existing ordinances of lo-
 33 cal governments or prohibit local governments from adopting and enforcing
 34 more restrictive definitions of a dangerous or vicious dog, so long as the
 35 local government's definition of a dangerous or vicious dog allows for acts
 36 of justified provocation as described in section 25-2810(3), Idaho Code.

37 SECTION 7. SEVERABILITY. The provisions of this act are hereby declared
 38 to be severable and if any provision of this act or the application of such
 39 provision to any person or circumstance is declared invalid for any reason,
 40 such declaration shall not affect the validity of the remaining portions of
 41 this act.

42 SECTION 8. An emergency existing therefor, which emergency is hereby
 43 declared to exist, this act shall be in full force and effect on and after its
 44 passage and approval.